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SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 11446|LA4|83. *Dated, Trivandrum, 18th November, 1983.*

The University Laws (Amendment) Bill 1983 together with the Statement of Objects and Reasons, the Financial Memorandum and the Memorandum regarding Delegated Legislation is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. R. PRASANNAN,
Secretary,
Legislative Assembly.

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Seventh Kerala Legislative Assembly

Bill No. 72

THE UNIVERSITY LAWS (AMENDMENT) BILL, 1983

A

BILL

further to amend the Kerala University Act, 1974 and the Calicut University Act, 1975.

Preamble.—WHEREAS it is expedient further to amend the Kerala University Act, 1974 and the Calicut University Act, 1975, for the purposes hereinafter appearing;

BE it enacted in the Thirty-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the University Laws (Amendment) Act, 1983.

(2) It shall be deemed to have come into force on the 18th day of November, 1982.

2. *Amendment of Act 17 of 1974.*—In the Kerala University Act, 1974 (17 of 1974), in section 56,—

(a) in sub-section (1), after the words "affiliation to the University of any college", the words "or for affiliation in new courses in any affiliated college" shall be inserted;

(b) for sub-section (2) the following sub-section shall be substituted, namely:—

"(2) The terms and conditions of affiliation of a college or of affiliation in new courses in an affiliated college and the procedure to be followed by the Syndicate in granting such affiliation, including the period within which the Syndicate shall consider an application under sub-section (1), shall be prescribed by the Statutes:

Provided that the Chancellor may, by notification in the Gazette, for reasons to be specified in the notification, extend the period within which the Syndicate shall consider any application under sub-section (1), whether such period has already expired or not, by such further period, not exceeding one year, as may be specified in such notification.".

3. *Amendment of Act 5 of 1975.*—In the Calicut University Act, 1975 (5 of 1975), in section 56,—

(a) in sub-section (1), after the words "affiliation to the University of any college", the words "or for affiliation in new courses in any affiliated college" shall be inserted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The terms and conditions of affiliation of a college or of affiliation in new courses in an affiliated college and the procedure to be followed by the Syndicate in granting such affiliation, including the period within which the Syndicate shall consider an application under sub-section (1), shall be prescribed by the Statutes:

Provided that the Chancellor may, by notification in the Gazette, for reasons to be specified in the notification, extend the period within which the Syndicate shall consider any application under sub-section (1), whether such period has already expired or not, by such further period, not exceeding one year, as may be specified in such notification.".

4. *Repeal and Saving.*—(1) The University Laws (Amendment) Ordinance, 1983 (26 of 1983), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the Kerala University Act, 1974 (17 of 1974), or the Calicut University Act, 1975 (5 of 1975), as amended by the said Ordinance, shall be deemed to have been done or taken under the Kerala University Act, 1974 or, as the case may be, the Calicut University Act, 1975, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Statute 1 of Chapter 23 of the Kerala University First Statutes, 1977, provides that applications for affiliation of a College or for affiliation in additional subjects shall be addressed to the Registrar, and shall be forwarded to him not later than the 31st of October preceding the academic year in which courses are proposed to be started. Clause (1) of Statute 6 of the said Chapter lays down that all applications seeking affiliation shall be considered by the Syndicate not later than the month of December. Statute 1 and clause (1) of Statute 6 of Chapter 21 of the Calicut University First Statutes, 1977, also contain similar provisions.

2. The Syndicates of the Universities of Kerala and Calicut had considered the applications for affiliation during the academic year 1982-83 received by them and had forwarded their recommendations to Government after December, 1981, for ascertaining the views of the Government, as required by Statute 9 of Chapter 23 of the Kerala University First Statutes and Statute 9(g)

of Chapter 21 of the Calicut University First Statutes, respectively, and Government had communicated their views to the Universities agreeing to the starting of 5 new Colleges, degree courses in 24 Colleges and Postgraduate courses in 24 Colleges under the Kerala University and 6 new Colleges, degree courses in 10 Colleges and Postgraduate courses in 8 Colleges under the Calicut University. The Universities have granted provisional affiliation in some cases and grant of affiliation was pending in some other cases.

3. In the meanwhile, the High Court of Kerala in its judgment pronounced on the 14th October, 1982 in O.P. Nos. 6098/1982-B and 6496/1982-J held that reference to 'December' in Statute 6(1) of Chapter 23 of the Kerala University First Statutes could only be to December of the previous year, that considering the scheme of the provisions, the rationale behind fixing the time limit and the public interest that is sought to be served thereby, the irresistible conclusion is that the time limit of end of December fixed in the said Statute 6(1) is the time limit for taking final decision on the question of grant or refusal of affiliation contemplated under Statute 9 of Chapter 23 of the said Statutes, that all applications for affiliation of new colleges and training colleges to be commenced in the year 1982-83 are deemed to have become infructuous and that no affiliation could be granted on any one of those applications.

4. In view of the above judgment, the Universities were prevented from granting affiliation to the new colleges and courses for which Government views had been communicated. Thus a situation arose where the new colleges and courses could not be started during the academic year 1982-83 and students could not be admitted to the new colleges or to the new courses.

5. With a view to avoid hardship to the students who seek admission in the new colleges or to the various courses proposed to be started during the academic year 1982-83, it was considered necessary to amend section 56 of the Kerala University Act, 1974 and section 56 of the Calicut University Act, 1975 for empowering the Chancellor to extend the period within which the Syndicate is to consider applications for affiliation of colleges and of new courses in affiliated colleges.

6. As the Legislative Assembly was not in session and as the matter could not wait till the next session of the Legislative Assembly, the University Laws (Amendment) Ordinance, 1982 (6 of 1982), was promulgated by the Governor on the 17th November, 1982. A Bill to replace that Ordinance by an Act of the Legislature was published in the Gazette. But the Bill could not be introduced in and passed by the Legislative Assembly during its last session which commenced on the 25th February, 1983 and ended on the 30th March, 1983. Therefore, the said Ordinance would have ceased to operate on the 7th April, 1983 ie. at the expiration of six weeks from the reassembly of the Legislature after the pormulgation of the Ordinance.

7. It was considered necessary to keep alive the amendment made by the said Ordinance and therefore the University Laws (Amendment) Ordinance 1983, (11 of 1983), was promulgated by the Governor on the 6th April, 1983. A Bill to replace that Ordinance by an Act of the Legislature was published in the Gazette. However, the Bill could not be introduced in and passed by the Legislative Assembly during its last session which commenced on the 20th June, 1983 and ended on the 4th August, 1983. Therefore, the Ordinance lapsed on the 1st day of August, 1983.

8. It was considered necessary to keep alive the amendments made by Ordinance 11 of 1983 and accordingly the University Laws (Amendment) Ordinance, 1983 (26 of 1983), was promulgated by the Governor on the 20th day of August, 1983 and published in the Kerala Gazette Extraordinary No. 910 dated the 20th August, 1983. The Bill seeks to replace Ordinance 26 of 1983 by an Act of the State Legislature.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-section (2) of section 56 of the Kerala University Act, 1974 (17 of 1974), as proposed to be substituted by sub-clause (b) of clause 2 of the Bill seeks to empower the University to prescribe by Statutes the terms and conditions of affiliation of a college or of affiliation in new courses in an affiliated college and the procedure to be followed by the Syndicate in granting such affiliation, including the period within which the Syndicate shall consider an application for such affiliation. The proviso to the said sub-section seeks to empower the Chancellor to extend, by notification in the Gazette and for reasons to be specified therein, the period within which the Syndicate shall consider any application for affiliation, whether such period has already expired or not, by such further period, not exceeding one year, as may be specified in the notification. Sub-clause (b) of clause 3 of the Bill seeks to substitute sub-section (2) of section 56 of the Calicut University Act, 1975 (5 of 1975), for incorporating similar provisions in that Act also.

2. The matters in respect of which Statutes may be prescribed or notification may be issued are matters of procedure or of an administrative nature. The delegation of legislative power is, thus, of a normal character.

T. M. JACOB